

EXHIBIT F

1 with the actual -- active ingredient. And once
2 none of that worked, then I filled out this
3 report.

4 (Exhibit No. 23 was premarked for
5 identification.)

6 BY MR. KENNEDY:

7 Q Let's go to -- take a look at
8 Exhibit 23, so we can start to understand when
9 this problem began.

10 If you go to page 170, that's the
11 beginning of the chain chronologically. And this
12 is an e-mail from you on October 5, 2010, correct?

13 A Mm-hmm.

14 Q And it's to a whole lot of different
15 people.

16 A Yes.

17 Q "Subject: Control Drug IRR Important
18 Info." Is that the subject matter?

19 A Yes.

20 Q "Importance: High."

21 A Yes.

22 Q And you state: "The issue with the
23 hydro items" -- and that's hydrocodone, a
24 controlled substance, right?

1 A Yes.

2 Q "The issue with the hydro items last
3 month" --

4 So now you're referring back to
5 September, an issue, correct, back to September?

6 A Yes.

7 Q So, "The issue with the hydro items last
8 month appears to be happening again this month
9 with several items. This includes all drugs that
10 end with 'pam,' many and items." There's some
11 redactions by CVS.

12 Then you state: "I verified the entire
13 network" --

14 When you say "entire network," you're
15 talking about the entire country, true?

16 A Correct.

17 Q And you say: "I verified the entire
18 network this morning, and there were no control
19 drug suspicious orders." Is that what you stated?

20 A Yes.

21 Q You've got 5,000 to 7,000 pharmacies at
22 this point in time, and your report shows no
23 controlled drug suspicious orders.

24 MR. BUSH: Objection.

1 BY MR. KENNEDY:

2 Q Is that -- is that alarming to you, sir?

3 MR. BUSH: Objection.

4 THE WITNESS: All 5,000 weren't on
5 October 5th. Earlier in the month, the -- the IRR
6 ran fairly clean. Usually as the month went on,
7 that's when the orders would -- would start to
8 potentially get into a zone where that they could
9 start flagging.

10 BY MR. KENNEDY:

11 Q My question is real simple, sir. Was
12 that alarming to you that when you looked at an
13 IRR report, you saw not one single controlled drug
14 suspicious order for the entire country? Was that
15 alarming to you, sir?

16 MR. BUSH: Objection.

17 THE WITNESS: It wasn't the entire -- it
18 wasn't every single store. It was only the stores
19 that ordered on that particular day.

20 BY MR. KENNEDY:

21 Q Exactly, sir. Was that alarming to you
22 that across this country on this date not one
23 controlled drug suspicious order? Did that alarm
24 you?

1 A No.

2 Q No. Important enough for you to send an
3 e-mail to all of these people to tell them,
4 though, right?

5 A I wanted --

6 MR. BUSH: Objection.

7 THE WITNESS: -- to get the data fixed.

8 BY MR. KENNEDY:

9 Q And that -- the fact that not one
10 controlled drug suspicious order was on that
11 report was important enough for you to tell all
12 these people, right?

13 MR. BUSH: Objection.

14 BY MR. KENNEDY:

15 Q Is that right?

16 A That was just letting them know the
17 findings today.

18 Q Exactly. And you put "Importance:
19 High." Right?

20 A To let them know that although we don't
21 have the data, I did verify that the job was still
22 done.

23 Q Now, let's go up to your next e-mail,
24 same day, John Mortelliti. And then you send it

1 to Gary, whose name I can't pronounce. Who was
2 that?

3 A Gary Misiaszek. He -- I believe he was
4 the head of IS at the time.

5 Q Okay. And that's the person that could
6 help you fix this?

7 A Yes.

8 Q Okay. Again, high -- the importance is
9 high, right?

10 A Yep.

11 Q And you state: "Gary, it looks as
12 though the same issue we had with the hydro items
13 is now happening to several items. The report is
14 about a half-inch thick."

15 That's not a little report, is it?

16 A Nope.

17 Q You said beginning -- you got a
18 half-inch report, and only about five total items
19 have historical data. Five on a half-inch thick
20 report. Did that alarm you?

21 A It caused a lot of work for me. I had
22 to go back and review previous IRRs and fill in
23 the blanks.

24 Q I didn't ask you what you had to do. I

1 know what you did. We'll talk about that. But
2 the fact that you got a report a half-inch thick,
3 and you only have historical data for five, did
4 that alarm you, sir?

5 A What alarmed me was it wasn't printing
6 on that report. I had historical data for
7 everything.

8 Q And, sir, this is what prompted you to
9 fill out the report indicating that CVS was
10 noncompliant with DEA expectations. This is what
11 prompted that report, sir; isn't it true?

12 MR. BUSH: Objection.

13 THE WITNESS: The lost data was one of
14 the reasons.

15 BY MR. KENNEDY:

16 Q Go to page 69, the previous page, we
17 continue along with the e-mail chain. Go up to
18 your next e-mail, which is October 6th, 2010, the
19 next day, and it's to Gary again, and now this is
20 to your boss, Frank Devlin, true?

21 A Yep.

22 Q And it says "Importance: High," does it
23 not?

24 A Yes.

1 Q And then you state: "All but one item
2 in the network" --

3 The network is the entire country, is it
4 not, sir?

5 A Yes.

6 Q And you say: "All but one item in the
7 network are missing three to four items of LAG
8 info on today's report."

9 The LAG is in relation to historical
10 data, is it not, sir?

11 A Yes.

12 Q And now you've got a report, one item
13 nationally -- only one item nationally; is that
14 right?

15 MR. BUSH: Objection.

16 BY MR. KENNEDY:

17 Q Is that what it says?

18 MR. BUSH: Objection. I don't
19 understand the question.

20 BY MR. KENNEDY:

21 Q All but one item. Is that what it says,
22 sir? I'm just asking you about the first
23 sentence.

24 A Yes.

1 Q And so the jury understands, three to
2 four items of LAG are missing. There's only six
3 total items of LAG of historical data, correct?

4 A Yes.

5 Q Only six LAGs.

6 A Yeah.

7 MR. BUSH: Objection.

8 BY MR. KENNEDY:

9 Q And on this report every single -- every
10 single item is missing three to four except for
11 one. Were you alarmed by that?

12 MR. BUSH: Objection.

13 THE WITNESS: I was alarmed about how
14 much work needed to be done to get the data.

15 BY MR. KENNEDY:

16 Q Well, you were alarmed enough to fill
17 out a report to say, "CVS is noncompliant with DEA
18 expectations at this point." True, sir?

19 MR. BUSH: Objection.

20 BY MR. KENNEDY:

21 Q What's based upon what we're reading
22 here, correct?

23 MR. BUSH: Objection.

24 THE WITNESS: That's -- that's -- yes, I

1 wrote it like that, like I said, because I had to
2 go back to all previous reports and manually fill
3 in all the data to do the IRR.

4 BY MR. KENNEDY:

5 Q Well, sir, look, I -- I know you look at
6 this and say, This is going to cause me a lot of
7 work, but weren't you also concerned with the
8 people in the United States of America who were in
9 the midst of an opioid crisis? Weren't you also
10 concerned about them?

11 MR. BUSH: Objection.

12 THE WITNESS: This had nothing to do
13 with losing drugs. I -- I did not allow one drug
14 to slip through the IRR during this process. I
15 worked several more hours on the IRR, which is why
16 I wrote it the way -- the way I wrote it. But I
17 didn't release anything because of the work.

18 BY MR. KENNEDY:

19 Q Let's continue to the next sentence.
20 "Something else changed or just about every
21 company we deal with has changed the description
22 of their drugs. Whatever you can do to help
23 expedite this process would be greatly
24 appreciated."

1 You wanted this done fast, sir, did you
2 not?

3 A I wanted it done immediately.

4 Q Because you knew that if the DEA came
5 in, they would know, they would understand, and
6 they would discover that you were noncompliant
7 with their expectations as it -- as it relates to
8 monitoring suspicious orders, sir. That's why you
9 wanted it done fast.

10 MR. BUSH: Objection.

11 THE WITNESS: No, I don't believe that.

12 BY MR. KENNEDY:

13 Q Okay. You next state: "I am now
14 reviewing the network Control Drug IRR on common
15 sense as opposed to IRR historical data. I know,
16 that is scary. Be nice."

17 Explain to us, sir --

18 A I was --

19 Q -- tell us your common sense --

20 MR. BUSH: Wait, wait. Let him answer.

21 BY MR. KENNEDY:

22 Q Tell us your common sense approach that
23 you were utilizing.

24 A I was trying to basically poke fun at

1 myself to get friendly with Gary Misiaszek, hoping
2 he would push my -- my request through so I could
3 get all the data put back onto the IRR and ease
4 some of the workload I had.

5 Q What was your common sense approach?

6 A There was no common sense approach. I
7 was trying to be funny with him, trying to be
8 friendly. I manually took all the historical data
9 from previous IRRs and filled in the blanks for
10 all the historical data.

11 Q You were trying to do what a computer
12 and six algorithms were doing, right?

13 A No, I was copying, and I had people
14 helping me.

15 Q And what you were trying to do was fill
16 in historical data and do what a computer and six
17 algorithms were doing.

18 A By filling in the historical data?

19 Q Yes.

20 A I guess the printer would have printed
21 it.

22 Q And then what would you do with it when
23 you got it?

24 A Review it.